

DRAFT **Evergreen Development Policy**

City of San Jose
November 1, 2006

NOTE: Please note that this Draft EDP includes sections with blank areas or missing information. These sections are left blank intentionally with the intent that they will be filled in later, based upon the direction and adoption, by the City Council, on the various components to this Policy including but not limited to: development densities/capacities, amenity/investment priorities, affordable housing ratios, and phasing of development.

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I. BACKGROUND

This policy, entitled, *The Evergreen Development Policy (EDP)*, is an update of the original EDP adopted in 1976 as amended from time to time.

EVERGREEN DEVELOPMENT POLICY AREA BOUNDARIES

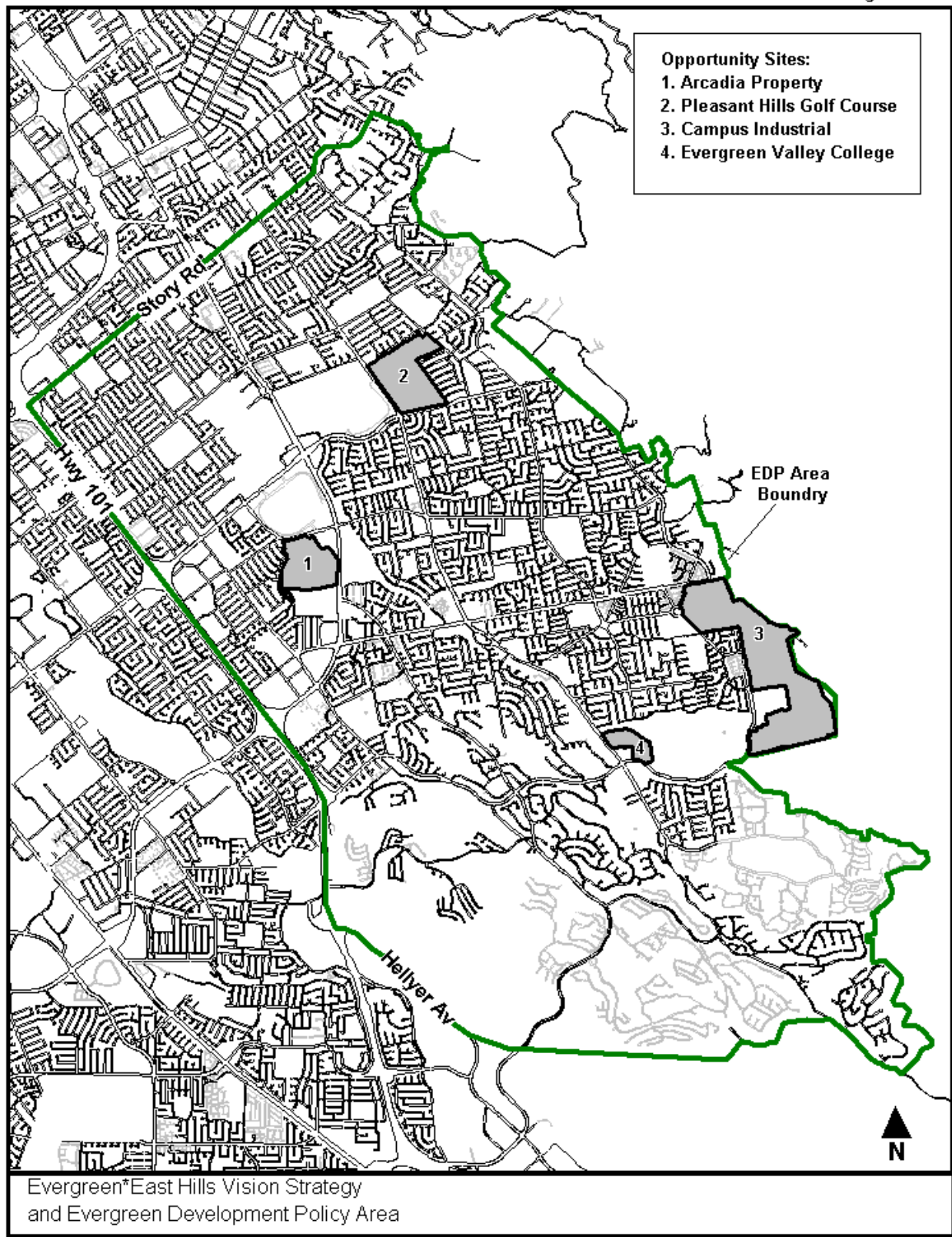
The updated *Policy* area boundaries (the “EDP Area”) match the original boundaries of the *Evergreen Development Policy*, defined as the land within San Jose's Urban Service Area Boundary, south of Story Road, east of U.S. Highway 101, and north of the intersection of U.S. Highway 101 and Hellyer Avenue (see Figure 1).

The Policy area overlaps with portions of the East Valley/680 Communities, K.O.N.A. and West Evergreen Strong Neighborhood Initiative (SNI) planning areas and fully incorporates the Evergreen Specific Plan area and the Silver Creek Planned Residential Community. Portions of the EDP Area are also designated as Redevelopment Project Areas.

PURPOSE OF ORIGINAL EVERGREEN DEVELOPMENT POLICY

The original *Evergreen Development Policy* (EDP) was adopted in August 1976 to address the issues of flood protection and traffic capacity in the EDP area. The EDP was based on City analyses, which concluded that transportation and flood protection deficiencies constituted substantial constraints to development in the EDP Area. The 1976 EDP established the policy framework for dealing with the buildout of the EDP area as identified by the General Plan at that time, and identified specific programs for correcting the service deficiencies. Since the adoption of the EDP, growth in the EDP area has been limited by the availability of urban services, particularly the capacity of the transportation and flood control systems. In particular, the goal of the EDP was to limit the construction of new residential units so that a traffic Level of Service “D,” consistent with the City’s General Plan policies, would be maintained at key boundary (screenline) intersections.

Figure 1



Summary of Previous Updates

1991 Evergreen Specific Plan (ESP):

Under the original EDP, the screenline intersections reached their maximum traffic capacity in 1989, effectively preventing additional residential development. At that point, however, there was potential for the construction of almost 4,000 new residential units based on existing General Plan land use designations [if this is not the 2020 General Plan, than please give the title and when adopted here]. Of the almost 4,000 potential residential units, 3,000 were within a sub-area of the original EDP, called the *Evergreen Planned Residential Community* (EPRC).

In 1990, the City Council initiated the *Evergreen Specific Plan* (ESP) for the EPRC to create a unique suburban area with a mix of lot sizes, housing types, some retail, parks, schools, and other amenities. The ESP was the catalyst to revise the original EDP, and through that effort, the City was able to identify additional traffic mitigation measures to support the construction of the new residential units. Traffic analysis performed in conjunction with the preparation of the ESP, quantified the amount of traffic capacity required to allow full development of the remaining vacant lands in Evergreen, and identified potential street improvements which could provide the required capacity. In 1991, the City Council approved the ESP and revised the OEDP to be consistent with the ESP.

1995 EDP Amendment:

The original EDP was again revised in 1995 to provide the policy framework for the build-out of the EDP Area consistent with the General Plan at that time [if this is not the 2020 General Plan, than please give the title and when adopted here].. With the goal of maintaining the basic traffic LOS “D” and hundred-year flood projection standards of the 1976 EDP and 1991 EDP Amendment, those standards were preserved as prerequisites to project approvals. The 1995 EDP Amendment identified the remaining watersheds and street system improvements required to allow 4,759 residential units to proceed. A Benefit Assessment District (No. 91-209SJ Aborn-Murillo) was formed to provide a cost-sharing plan to finance and construct the extensive infrastructure network enhancements necessary to facilitate the planned and potential dwelling units identified by the San José 2020 General Plan [this is the first mention of the 2020 GP. Please name the previous references to the General Plan as 2020, if accurate, or rename as appropriate. See previous comments.] and the ESP. In 1998, the Benefit Assessment District was augmented and updated through the formation of Community Facilities District No. 4 as a result of changes to the laws governing special districts. Both the Benefit Assessment District and the Community Facilities District remain in effect.

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1998 EDP Amendment:

A minor amendment was made to the EDP in August 1998 to refine the traffic analysis methodology in order to facilitate small-scale, non-residential development. Following this amendment, traffic analysis methodology was no longer based upon screenline intersections, but based upon traffic measurements at all affected intersections.

II. PURPOSE AND GOALS

The primary purpose of the updated *Evergreen Development Policy* (EDP) is to replace the original EDP, as amended, and to provide a new comprehensive policy framework for new development within and built out of the EDP Area. Each of the appendices attached to the EDP are incorporated into this EDP. The EDP land use strategy was developed through a community based process and is intended to promote the long-term vitality of land uses within the EDP Area. The EDP links together new development with the offer of providing new infrastructure and amenities by the developers and property owners in the EDP Area.

The EDP is consistent with the City's 2020 General Plan, specifically supporting the General Plan goals of protecting the City's Urban Growth Boundary/Greenline through the promotion of infill development, and the provisions of General Plan Level of Service Policy No. #5. The City's Level of Service Policy No. #5 provides alternative standards for determining conformance with the City's Level of Service policy for transportation facilities. The primary reason for adopting an Area Development Policy is to manage the traffic congestion associated with near term development in the EDP Area and simultaneously promote development consistent with the General Plan goals and neighborhood visions. This Area Development Policy allows continued development of the EDP Area while balancing the community's needs for amenities and transportation mobility. In exchange for an exceeded LOS standard, the Policy provides a mechanism to construct transportation system investments and desired neighborhood amenities funded by private development beyond the City's typical scope for such in a manner that is explained more fully herein.

The EDP serves as the guiding policy document for new residential development tied to specific transportation and amenity investments. The EDP establishes specific traffic Level of Service (LOS) standards for the Evergreen area and identifies development capacity for a specific amount of new residential, commercial and other development types. The LOS standards established within the EDP are intended to correspond to the eventual traffic conditions that will result from implementation of the Policy as determined through a traffic analysis prepared during the development of the EDP. The EDP also links the timing of the construction of specific transportation improvements and community amenities with new housing development and sets forth Guiding Principles and establishes general land use and architectural design guidelines for new development in the EDP Area. The major features of the EDP are incorporated into the City's General Plan. A companion document, the EDP Funding Agreement, sets forth specific details for the implementation of the EDP in the form of a contract between key participating property developers and the City.

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The preparation of this EDP was enabled through the voluntary participation of several key property owners, including those who have applied for an amendment to the EDP to enable residential development on their sites within the EDP Area. These key property owners are combining resources to fund infrastructure and amenity improvements in a manner that differs from what may otherwise be constructed through the standard City development entitlement process in order to provide a benefit to the community to balance the inability to completely mitigate traffic congestion in the EDP Area.

The EDP builds upon several prior planning efforts, including the work of the Evergreen Visioning Project, the Evergreen-East Hills Vision Strategy (EEHVS) planning process, the Strong Neighborhood Initiative program and the Knight Program in Community Building Evergreen-Eastridge area charrette. Funding of transportation investments and amenities in the EDP Area was offered to the City by the key property owners, and the transportation investments and amenities included as part of the EDP Policy were identified through these efforts and drawn directly from the adopted SNI *Improvement Plans*, the City's adopted *Greenprint* and the products of the Evergreen Visioning Project (EVP) and the Knight Program charrette.

The goals of the EDP are to:

- Support the community-based vision to guide future development in Evergreen, including a clear concept of the future character of the area.
- Provide development capacity for specific amounts of new residential, commercial and other land uses.
- Identify and establish a mechanism to fund the transportation improvements needed to support this new development capacity.
- Identify and fund community amenities consistent with the vision of the EEHVS.

All new development within the EDP area should be consistent with the Guiding Principles and the desired Outcomes set forth in Appendix A, which were endorsed by the City Council in June of 2005, as part of the EEHVS planning process. The Guiding Principles state that all new development in EDP area should be sustainable, of high quality, and improve the overall livability of the area. New residential development should create housing opportunities for a wide range of household types and income levels. Infrastructure and services should support the planned levels of residential and non-residential development. New development in transit corridors should incorporate transit-oriented development concepts, and all development should support vibrant land uses linked by various transportation modes and community amenities.

III. LAND USE

GENERAL LAND USE CONCEPTS

The Evergreen Development Policy Land Use Policies are intended to:

- Guide development to appropriate locations within the Evergreen Development Policy Area.
- Provide appropriate flexibility for new development capacity.
- Maintain the current location of the Urban Growth Boundary
- Facilitate infill development within the Urban Growth Boundary.
- Promote transit-oriented development along the Capitol Corridor to support the Capitol Light Rail expansion.
- Facilitate walking, bicycling, and transit use.
- Promote a diversity of housing options within neighborhoods.
- Protect, enhance, and/or restore natural features.

AFFORDABLE HOUSING

Consistent with Key Outcome No. #5 (see Appendix A – Vision and Expected Outcomes and Guiding Principles for Land Use and Transportation Planning) the EDP Policy is intended to create housing opportunities for a wide range of household types and income levels. For this reason the Four Opportunity Sites shall provide a fair share (**TBD%**) of affordable housing (TBD) which meet the goal of this policy to provide affordable housing thresholds as established in the associated Agreement with the City on affordable housing and a perquisite in the Phasing schedule for the EDP. Two of the opportunity site (Arcadia and Evergreen Valley College) have specific requirements described below:

Arcadia Site:

The Arcadia Site will be required to provide a minimum of 20% affordable housing units under the requirements of the California Redevelopment Law and adopted San Jose policy regarding the income distribution of the units. Specific distribution levels require a minimum of: ____ medium income units, ____ low income units, ____ very low income units, and ____ extremely low income units that consist of ____ rental and ____ ownership units.

Evergreen Valley College Site:

Under the EDP, the development of the Evergreen Valley College Site requires construction of a minimum of 40% of its total units as affordable/deed-restricted housing per the associated Affordable Housing Agreement between the City and the Property Owners of the Four Opportunity Sites. Specific distribution levels require a minimum of:

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____ medium income units, ____ low income units, ____ very low income units, and ____ extremely low income units that consist of ____ rental and ____ ownership units.

However, despite the residential development capacity allowed on this site by the EDP, the Evergreen Community College District Board of Trustees may take action at any time to change the uses contemplated by the EDP and utilize this site for solely educational purposes as may be authorized by state law, which may preempt local land use jurisdiction over this site. This would cause a reduction in the amount of affordable housing required by the EDP for the Major Opportunity Sites. In order to further insure compliance with the goals of the EDP, all affordable housing on the Opportunity Sites shall be constructed at the same time and in the same proportion (1 affordable unit for every 5 market rate units).

Pleasant Hills Golf Course and Campus Industrial Sites:

The Pleasant Hills Golf Course site and the Campus Industrial site are required to contribute to toward the goal of providing additional affordable housing opportunities in the EDP Area. Affordable unit obligations on the Pleasant Hills Golf Course site and the Campus Industrial site may be provided either as actual constructed units or by paying an in-lieu fee, as set forth in an affordable housing agreement/plan that must submitted by the developers and approved by the City in accordance with the EDP criteria and phasing plan.

RETAIL STRATEGY

Consistent with Key Outcome No. #4 (see Appendix A – Vision and Outcomes and Guiding Principles for Land Use and Transportation Planning in Evergreen) the EDP is intended to foster vibrant commercial/business, mixed use, and residential areas including added opportunities for post offices, health care, entertainment and other retail uses. The Guiding Principles and Design Guidelines incorporated as an attachment to this Policy also encourages mixed-use development.

DEVELOPMENT CAPACITY

This Policy establishes a specific amount of land use development capacity for the EDP Area. All new development entitlements for properties located within the EDP Area must be consistent with these provisions.

Existing Development Capacity

All properties with established development capacity in the form of existing construction onsite, existing entitlements, allocation of development capacity under the previous policy or assigned trips in the City's Approved Trips Inventory (ATI) retain the rights to that development capacity in terms of the associated traffic generation (trips) under the

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original EDP as amended. Existing trip allocations for a property will be credited for any development or redevelopment of that property, including proposed changes in use (e.g., existing commercial or industrial trips can be credited to a new residential project that displaces the commercial or industrial use). Development beyond the existing trip allocation will require new allocation as provided in the following provisions of this Policy. As of November 2006, unconstructed allocations under the previous policy are set forth in Appendix H of this Policy.

Major Opportunity Sites

The EDP allows new development capacity for the Four Opportunity Sites located within the EDP Area. These four sub-areas, referred to as “Major Opportunity Sites” represent the largest, most readily identifiable sites available for new development or redevelopment within the Evergreen Development Policy area and as such warrant unique treatment. The four Major Opportunity Sites are the “Arcadia Property”, the Pleasant Hills Golf Course, the “Campus Industrial” site and 27 acre portion of the Evergreen Valley Community College campus, as depicted on Figure 1.

Arcadia Property

The Arcadia Property is an 81-acre site located just south of Eastridge Mall. It is bounded by Quimby Road to the north, Capitol Expressway to the east, Leyva Middle School and Meadowfair Park to the south, and single-family residences to the west.

This Policy allows for the development of up to _____ residential units on this site. Of these, a maximum of _____ may be multi-family attached, and a maximum of _____ may be single-family detached townhomes. A mix of rental and ownership housing must be provided on this site. In order to address neighborhood compatibility policies, traditional single-family detached residential units shall be developed along the westerly edge of the site, adjacent to the existing neighborhood. This Policy also allows for the development of up to _____ square feet of commercial square footage on the Arcadia Property.

Pleasant Hills Golf Course

The 114-acre Private Pleasant Hills Golf Course is located east of Lake Cunningham Park. The golf course operation was close in 2004. It is bounded by single-family residences to the north, Vista Verde Drive to the east, Tully Road to the south, and White Road to the west. The site has a General Plan land use designation of Private Recreation, and is unincorporated. Development of the property for any use other than private recreation requires annexation and a General Plan Amendment. Development of this site will require the dedication of approximately 1-acre of land for the relocation of Fire Station #21, beyond the land dedication requirements described below and entitled, “Relationship to Parkland Dedication Ordinance/ Park Impact Ordinance.”

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This Policy allows for the development of up to _____ residential units on this site. Of these, a maximum of _____ may be multi-family attached, and a maximum of _____ may be single-family detached (large lot, small lot, or townhouse) units. This Policy also allows for the development of up to _____ square feet of commercial square footage on the Pleasant Hills Golf Course.

Campus Industrial

This 320-acre site is comprised of 16 parcels located in the eastern foothills on the easterly side of Yerba Buena Road adjacent to the *Evergreen Specific Plan Area*. It is bounded by parks and single-family residences to the north and west, the Urban Growth Boundary to the east, an office/research and development complex (Hitachi Headquarters) and a riparian corridor to the south.

This Policy allows for the development of up to _____ residential units on this site. The Campus Industrial site has no specific combination requirement of attached and detached residential units.

Evergreen Valley Community College

The Evergreen Valley Community College Opportunity Site is a 27-acre portion of the Evergreen Valley Community College campus located at the northeast corner of Yerba Buena Road and San Felipe Road. It is bounded by Evergreen Creek to the north, the College campus to the east, Yerba Buena Road to the south and San Felipe Road to the west except the site borders an existing commercial development located immediately adjacent to the intersection of Yerba Buena and San Felipe Roads.

This Policy allows for the development of up to _____ residential units on this site. Of these, a maximum of _____ may be multi-family attached, and a maximum of _____ may be single-family attached (townhouse) units. This Policy also allows for the development of up to _____ square feet of commercial square footage on the Evergreen Valley Community College Opportunity Site. This commercial square footage may be used for either retail or commercial office development, but may not be allocated to a supermarket greater than 50,000 square feet. Despite the development capacity allowed on this site, the Evergreen Valley College District Board of Trustees may take action at any time to change the use contemplated by the EDP and utilize this site for solely educational purposes as may be authorized by state law, which may preempt local land use jurisdiction over this site.

The dedication of approximately 2-acre of land for the construction of a library facility, beyond the land dedication requirements described below entitled, "Relationship to Parkland Dedication Ordinance/ Park Impact Ordinance," is required as part of this policy at a time certain identified in the corresponding Funding Agreement.

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New Residential Development Unit Pool

This Policy establishes capacity for the development of up to ____ residential units within the Policy area in addition to the capacity allocated to the four specific properties referred to as “Major Opportunity Sites”. This capacity is held in a pool that may be allocated to any property other than the Opportunity Sites per the allocation criteria set forth in this Policy. Of this pool, **25% (____ units)** is intended for allocation to only small development projects of 4 units or less. The remaining 75% may be allocated to projects of any size with the approval of a rezoning, development permit or subdivision, whichever comes first. Any type of residential development, including single-family and multi-family residential projects can be allocated units out of this pool. The total amount of residential development allowed under this Policy is the total of this pool and the amount of development specified above for the four Opportunity Sites. This Policy does not allow for any additional residential development beyond these specific allocations.

New Commercial/Industrial Development Square Footage Pool

This Policy establishes capacity for the development of up to **65,000 square feet** of new commercial development within the Policy area in addition to the capacity allocated to the four specific properties referred to as “Major Opportunity Sites”. This capacity is held in a pool that may be allocated to any other property per the allocation criteria set forth in this Policy. Typical commercial development includes retail and commercial office projects. New development of such uses will require allocation from this pool or, if this pool is exhausted, trip allocation may be granted for new commercial development from the Other (Non-residential) Development Trip Pool.

Additionally, commercial and industrial development not built-out on the Four Opportunity Sites may be transferred to and allocated to non-opportunity sites under this policy.

Other (Non-residential) Development Trip Pool

This Policy also contains provision for other non-residential development beyond the specific amounts of residential and commercial capacity described above through a non-residential trip pool of 500 trips. The number of peak-hour PM trips generated by any proposed non-residential development will be evaluated and must be able to draw the required number of trips from this pool in order to be entitled. This pool provides capacity for a wide variety of uses, excluding residential, and is primarily intended to allow for new cultural and institutional uses not otherwise addressed in the Policy. Commercial development beyond the scope described above may also make use of this trip pool.

Public Use Exemption

Public uses, including City, County, State or Federal development projects (e.g. police stations, fire stations, libraries, neighborhood parks, post offices, schools and transit facilities) are considered exempt from the traffic policies included within this document and do not require pool allocation.

IV. TRANSPORTATION POLICY AND STANDARDS

OVERVIEW

The City has an adopted Transportation Policy that establishes a citywide Level of Service (LOS) standard of “D” for signalized intersections. Geographic segments of the City with adopted Area Development Policies, as well as the Downtown, have unique, generally more permissive standards that vary from the citywide standard in recognition of special circumstances or superseding City goals that make maintaining an LOS of “D” impractical.

Under the previous EDP, an LOS of “D” was also established as a long-term goal for the EDP Area. Particular land uses were incorporated into the previous EDP so that at full build-out all EDP intersections would reach this LOS standard. A key component of the land use plan was the development of a significant industrial job base on the Campus Industrial Opportunity Site to establish a reverse commute pattern within the Policy area. Providing a job base within the EDP Area was projected to improve traffic conditions by decreasing the need for EDP Area residents to commute out of the EDP Area on heavily congested routes. Because residential development within the Policy area was implemented while the Campus Industrial site remained largely undeveloped, the LOS “D” standard was not met.

LEVEL OF SERVICE STANDARDS – EDP AREA PROJECTS

In place of the citywide LOS Standard, the Policy establishes a specific amount of development capacity for new residential, commercial and other forms of development and corresponding transportation infrastructure improvements. Combined with existing land uses, development of the Major Opportunity Sites and use of all pool capacity, is projected to result in the LOS conditions. As indicated on below, some intersections within the EDP Area are projected to operate at an LOS of “E” or “F” following full implementation of the EDP. All other EDP Area intersections are projected to maintain LOS “D” or better for AM and PM traffic conditions.

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As a result, additional analysis of traffic impacts is not anticipated to be necessary for development occurring under the EDP. However, all development projects within the EDP Area will still be subject to traffic operational analysis upon application for land use permits.

Intersection	Projected LOS Standard	
Capitol Expwy & Silver Creek Rd	AM	TBD
	PM	TBD
Capitol Expwy & Ocala Ave	AM	TBD
	PM	TBD
Capitol Expwy & Story Rd	AM	TBD
	PM	TBD
Capitol Expwy & Capitol Ave	AM	TBD
	PM	TBD
Capitol Expwy & Quimby Rd	AM	TBD
	PM	TBD
Tully Rd & McLaughlin Ave	AM	TBD
	PM	TBD

LEVEL OF SERVICE STANDARDS – PROJECTS OUTSIDE OF THE EDP AREA

If the traffic analysis for a new development project located outside of the EDP Area determines that the project will generate traffic within the EDP Area, the impact of that traffic will be evaluated according to the Citywide Transportation Policy and will need to include mitigation measures or other actions as required by the citywide policy. The City's Transportation Policy, as notably revised in June of 2005, requires that new development not create a significant impact at a signalized intersection. Generally any development project that causes an intersection to drop below LOS "D" or add a significant amount of traffic to an intersection already operating at LOS "E" or "F" must include improvements to the affected intersection that would fully mitigate the project's impacts. In June 2005, the City created a process whereby the City may, after evaluating, balancing and considering other City goals pursuant to the, designate any such affected intersection as a "protected intersection" which is an alternative to requiring improvement of the intersection in exchange for other traffic related improvements.

TRANSPORTATION DEMAND MANAGEMENT (TDM) MEASURES

All new development within the EDP Area is required to incorporate transportation demand management (TDM) elements into facility design, to the extent possible, to reduce the demand for single-occupancy vehicles during peak commute periods. A list of possible TDM measures is included as Appendix D to the EDP.

V. SCHOOLS

This Policy is consistent with the following City General Plan policies related to school facilities within the EDP Area:

- The City supports a system of open communication between the City, the public school districts and the development community in order to coordinate the activities of each to achieve the highest quality of education for all public school students.
- The City encourages school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures. These discussions should occur as early as possible in the project planning stage, preferably immediately preceding or following land acquisition.
- The City should cooperate with school districts in identifying and evaluating the impacts of population and demographic changes which may affect the need for new schools, may lead to school closures, may require the re-opening of closed schools or may lead to the decision that existing school sites should be preserved for meeting future needs.
- The City should support legislative efforts to create suitable and adequate means of funding the construction of school facilities needed for a growing population.
- The City and school districts should cooperate in the joint planning, development, and use of public school facilities combined with other public facilities and services, such as open space, recreation facilities, libraries, fire stations, and community service/ programs. The City should provide all pertinent information on General Plan amendments, rezonings and other development proposals to all affected school districts in a timely manner. because current state law limits the exactions that can be imposed by cities for development impacts on schools by making the statutory school fee the exclusive means of mitigating impacts on school facilities. Current state law provides that a local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization on the basis that school facilities are inadequate.
- The City should encourage the use of available school facilities for childcare purposes.

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Consistent with the General Plan policies related to schools list above, early coordination and planning between the Schools Districts, the property owners/developers of the Four Opportunity Sites, and the City (if applicable) is required prior to any legislative or discretionary land use entitlement affecting the potential development of the Four Opportunity Sites. This coordination must result in a Joint-Use Agreement between the affected School Districts, the property owners of the Four Opportunity Sites and the City of San Jose.

VI. TRANSPORTATION INFRASTRUCTURE

OVERVIEW

A key element of the EDP is the construction of new transportation infrastructure projects concurrent with the construction of new development within the EDP Area. These transportation projects are divided into four categories: **Project Transportation Improvements, Transportation Mitigation Measure Improvements, Transportation Amenities and Site Operational Improvements.** These improvements will be implemented through provisions set forth in this Policy, the associated Funding Agreement with the property owners of the Four Opportunity Sites, a Traffic Impact Fee, and/or as part of the entitlement process. Additionally, a Nexus Study has been prepared to establish the relationship between new development of the background/"pool" units and the Project Transportation and Transportation Mitigation Measure improvements to be funded through the Traffic Impact Fee. The Project Transportation Improvements and Transportation Mitigation Measures are also referred to collectively as the "Base Improvements."

PROJECT TRANSPORTATION IMPROVEMENTS

The Project Transportation Improvements are incorporated into the traffic analysis and environmental review that form the basis of the Transportation Policy and Standards set forth in this Policy. The set of base transportation infrastructure improvements are funded voluntarily by the developers of the Opportunity Sites beyond the scope of typical development-funded transportation mitigation programs. Consequently, their implementation is a foundational element for any utilization of the Policy's development capacity, and their funding must occur prior to or concurrently with the development of the Opportunity Sites. The full funding for these improvements is provided through the Funding Agreement and is a required component of the second Phase of development as detailed in the Implementation section of this Policy. A detailed explanation of these improvements is included as Appendix E to this Policy. The specific improvements are:

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- 1) *Operational Improvements on U.S. 101 between 280/680 & Yerba Buena Road:* This improvement is identified in the *US 101 Corridor Study* completed by the Valley Transportation Authority (VTA) in 2004. The improvement includes increased mainline and ramp capacity and the conversion of the full cloverleaf interchanges at Tully Road and Capitol Expressway to partial cloverleaf designs. In the northbound direction, the design includes adding an HOV lane to the Tully on-ramp, adding a mixed-flow lane to the Capitol on-ramp, and providing two mixed-flow on-ramps from Yerba Buena (separating Yerba Buena from Capitol). In the southbound direction, the design includes an auxiliary lane from Tully Road to Capitol Expressway and a mainline lane from I-280 to Capitol.
- 2) *White Road Improvements:* White Road is proposed to be widened and restriped to its full planned six-lane configuration from south of Ocala Avenue to Quimby Road; and from Stevens Lane to Aborn Road. The improvements include but are not limited to sidewalk, bike lanes, pavement, and a landscaped median island. Additional through and/or turn lanes will be added at the intersections with Ocala, Tully, Norwood, Quimby, Stevens, and Aborn.
- 3) *Reconfiguration of Ocala Avenue between Capitol Expressway and White Road:* Ocala Avenue will be widened to four lanes, two in each direction, between Capitol Expressway on the west and White Road on the east, a distance of approximately 0.7 miles. The work will occur within the existing right-of-way and the "widening" will consist of restriping a short segment of pavement just west of White Road.
- 4) *Improvements along Capitol Expressway between Quimby Road and U.S. 101:* The existing High Occupancy Vehicle (HOV) lanes between U.S. 101 and Nieman Boulevard will be converted to "mixed-flow" lanes, meaning that their use during weekday peak commute periods will no longer be restricted to vehicles with two or more occupants. [Note: Independently of this project, the planned and approved Capitol Expressway LRT extension will be removing the HOV lanes on Capitol Expressway between Nieman Boulevard and I-680.] Other improvements on Capitol Expressway between U.S. 101 and Quimby Road will consist of the addition of sidewalks, landscaping of the median, the addition of street lights, the planting of trees, pavement work, and traffic signal upgrade/modification. All work will occur within the existing right-of-way. The timing of these improvements will coincide with the LRT project and/or the relinquishment of Capitol Expressway from County jurisdiction to City jurisdiction.
- 5) *Intersection Improvements:* Additional through and/or turn lanes and operational improvements are included at fourteen intersections in order to provide additional capacity and reduce delay. The intersections include White Road/Ocala Avenue/Marten Avenue, White Road/Tully Road, White Road/Norwood Avenue, White Road/Quimby Road, White Road/Stevens Lane, White Road/Aborn

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Road/San Felipe Road, Yerba Buena Road/San Felipe Road, Yerba Buena Road/Silver Creek Road, King Road/Tully Road, Aborn Road/Ruby Avenue, Capitol Expressway/Quimby Road, Capitol Expressway/Aborn Road, Capitol Expressway/Silver Creek Road, and Capitol Expressway/McLaughlin Avenue.

- 6) *New Traffic Signals/Modifications:* The City of San Jose determines the need for new traffic signals based on a system of “warrants,” which analyze whether a traffic signal at a particular location would reduce traffic delays, reduce accidents, or help pedestrians. This Policy includes installation of traffic signals at the highest priority locations based upon improvements for safety and efficiency and based on existing and projected future traffic volumes. New traffic signals or signal modifications are planned for the intersections at Ruby Avenue/Norwood Avenue, I-680 Ramps (N)/Jackson Avenue, Ruby Avenue/Tully Road, Story Road/Clayton Road, Marten Avenue/Flint Avenue/Mt. Rushmore Drive, Quimby Road/Scottsdale Drive, Nieman Boulevard/Daniel Maloney Drive, Story Road/Lancelot Lane, Ocala Avenue/Hillmont Avenue, and Ocala Avenue/Adrian Way. Staff may conduct additional signal warrant studies in the future to confirm that these intersections are warranted prior to installation.

TRANSPORTATION MITIGATION MEASURE IMPROVEMENTS

The Transportation Mitigation Measure Improvements address specific traffic impacts associated with full build-out of the Policy’s development capacity and will directly benefit traffic flow within the Policy area. Although their construction was not initially proposed by the developers of the Opportunity Sites, they were identified as necessary traffic mitigation through the traffic analysis prepared for this Policy. Their construction will be funded or caused to be funded by the property owners of the Opportunity Sites, under the terms of the Funding Agreement and by using fees collected from a Traffic Impact Fee applied to all new residential pool allocations. Because development on the four Opportunity Sites is subject a separate Agreement that includes a fair contribution towards traffic mitigation, development on the Opportunity Sites is not subject to the Traffic Impact Fee. Additional details of the Traffic Impact Fee are discussed below in the Implementation Section. The specific mitigation measures are:

- 1) Capitol Expressway and Quimby Road (Scenario II thru VI): A northbound right-turn lane and an eastbound right-turn lane will be added to this intersection.
- 2) Nieman Boulevard and Yerba Buena Road (Scenario VI: partial mitigation): A second westbound left-turn lane will be added to this intersection.
- 3) Tully Road and McLaughlin Avenue (Scenario II thru VI): An exclusive northbound right-turn lane will be added to this intersection.

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TRANSPORTATION AMENITIES

Some transportation improvements provide a benefit to traffic flow, pedestrian safety or other factors that has not been specifically quantified in existing City policy or standard traffic analysis practices. Examples include a proposed Intelligent Transportation System (ITS) Network, construction of sections of the Thompson Creek Trail, new bike lanes, transit system enhancements and traffic calming measures. Selected improvements in this category are listed with the other Amenities below and will be funded according to the Phasing Plan and subject to availability of funding.

SITE OPERATIONAL IMPROVEMENTS

Additionally, some local transportation infrastructure improvements will need to be built as development occurs on specific properties. These improvements address local circulation needs or implement established improvement plans and are not specifically identified in this Policy. Their construction will be implemented through the application of standard development review and entitlement procedures.

VII. COMMUNITY AMENITIES

OVERVIEW

The second key element of the EDP is the construction of amenities identified by the community as necessary for the quality of life in the EDP Area. These amenities include new parklands and recreational facilities of general benefit to the local community. The funding for these amenities is linked to the entitlement of new development on the four Opportunity Sites as outlined in the Phasing Plan included within the Implementation section of this Policy and specifically detailed in the Funding Agreement.

The construction of the Amenities will occur over time as private development projects are implemented. While preliminary cost estimates have been prepared for most of the Amenities identified in this Policy, projected construction costs will be refined once design work is completed and ultimately determined at time of construction. The developers of the four Opportunity Sites, through this Policy, must provide a specific amount of money for the design and construction of Amenities. The timing of the availability of that funding will not be determined until issuance of the pertaining entitlements as set forth in the Phasing Plan. Some amenities are located on specific Opportunity Sites and their full implementation may be difficult or impractical ahead of the development of the site. The specific timing for the construction of the Amenities will need to be flexible to allow for practical application of the Policy.

The Amenities have been placed into four groups, identified as Tier 1 through Tier 4. Tier 1 amenities are considered the most important to the community and their funding and construction will be given the highest priority. Tier 2, Tier 3 and Tier 4 follow in sequential order of importance. While the amenities within each Tier are also ranked, the order of their implementation may vary from that ranking based upon the availability of funding and other factors. The implementation of all Tiered amenities shall be at the sole discretion of the City in order to maximize the funds available at any given time. However, to the fullest extent practical, priority will be given to the ranking of each tier, in addition, further community outreach will occur for the specific planning/programming of amenity facilities prior to construction.

Because the preliminary cost estimate for the full Amenity List exceeds the anticipated funding available, it is expected that only a portion of the Amenity List can be fully funded through the implementation of this Policy. Descriptions of these Amenities are included as Appendix F of this Policy.

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TIER 1 AMENITIES

TBD

TIER 2 AMENITIES

TBD

TIER 3 AMENITIES

TBD

TIER 4 AMENITIES

TBD

RELATIONSHIP TO PARKLAND DEDICATION ORDINANCE / PARK IMPACT ORDINANCE

All residential development within the EDP area, including the Four Opportunity Sites, is subject to the provisions of the City's Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), Chapters 19.38 and 14.25, respectively, of the San José Municipal Code. The intent of this section is to ensure that the package of parkland and amenities associated with the development of the Four Opportunity Sites does not only meet the minimum PDO and PIO obligation, but also extend beyond those typically implemented through the PDO and PIO process.

Based on the development capacity stipulated in the above Land Use section, the Four Opportunity Sites will be required to dedicate unimproved land for neighborhood and community serving park uses as stipulated in the table below.

Opportunity Sites	Total Units (SFD, SFA, MF)*	Gross Land Dedication Required (acres)**
Arcadia	TBD	TBD
Pleasant Hills Golf Course	TBD	TBD
Evergreen Valley College	TBD	TBD
Campus Industrial	TBD	TBD
TOTAL	TBD	TBD

Note(s): * SFD = Single Family Detached/ SFA = Single Family Attached/ MF = Multi-Family

** Acreage is rounded to the nearest tenth of an acre.

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Land dedications from the Opportunity Sites will be used for neighborhood parks and amenities consistent with the intent of the City of San Jose's PDO and PIO requirements. The precise obligations under the PDO and PIO for the Four Opportunity Sites will be determined as development of those sites proceed and will depend on the specific number and type of residential units developed, the number and types of credits that each development may be eligible to receive, and upon the acceptance of the land dedication by the City in accordance with the PDO and PIO. Should each individual Opportunity Site not be able to fulfill its PDO and PIO obligation through land dedication alone, then the funding for improvements of specific park sites and amenities identified on the preceding amenity list would be considered for credit(s) subject to the requirements of the PDO and PIO.

Alternatively, if each Opportunity Site cannot independently satisfy its respective obligation under the City's PDO and PIO, as described above, the property owner group and/or developers of the Four Opportunity Sites would be required to enter into a parkland agreement that will require the satisfaction of their respective parkland obligations cumulatively rather than on a project-by-project basis. Entering into such cumulative parkland agreement, if applicable, will be required as part of the first phase of development. Additional parkland agreements may be required for individual sites in order to receive private recreation credits and for turnkey park improvements consistent with the PDO and PIO in place at the time of development.

Implementation of the PDO and PIO on sites other than the Four Opportunity Sites will be used to provide parklands in addition to the specific improvements identified on the Amenity List in the EDP or to provide an additional funding source to allow construction of additional items on the Amenity List.

VIII. IMPLEMENTATION

REVIEW OF NEW DEVELOPMENT PROJECTS

All new development within the EDP Area will be subject to the City's standard procedures and policies for the review of new development within the City of San Jose. Projects should conform to the General Plan, applicable design guidelines and other policies and regulations unless specifically provided for otherwise in this Policy or the accompanying Funding Agreement. Additionally, all new development within the EDP Area should be consistent with the site design, architectural design and other items set forth in the Vision and Expected Outcomes, and Guiding Principles incorporated as Appendix A of this Policy and the Guiding Principle Design Guidelines incorporated as Appendix B.

ALLOCATION OF DEVELOPMENT CAPACITY

Allocation of the development capacity provided through this Policy is determined according to the criteria set forth in this section. The traffic impact analysis completed in connection with the EEHVS EIR includes all development in the following sections and no further traffic impact analyses is required; except that all development projects within the EDP Area remain subject to requirements for traffic operational analysis per the discretion of Director of Public Works. Allocations are made at the time of initial Planning entitlement approval (the first of either Planned Development Zoning, Development Permit, Vesting Tentative Map, or equivalent action) and remain in place unless all such entitlements expire. Development of the Opportunity Sites is constrained by the Phasing Plan included in the Implementation Section of this Policy. Development utilizing allocation from a development pool may occur at any time after the completion of Phase 1 in the Phasing Plan.

All new development within the EDP Area, including development on the Opportunity Sites and projects that make use of existing allocations, existing trip credits, or allocation of new development pool capacity must:

- Further the Major Strategies, Goals and Policies of the City of San Jose General Plan
- Be consistent with the Guiding Principles for Land Use and Transportation Planning in the EDP Area (Appendix A)
- Be substantially consistent with the Guiding Principle Design Guidelines (Appendix B)
- Not require modification of the Urban Service Area or Urban Growth Boundary boundaries.

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- Not create significant adverse effects upon the environment, including but not limited to; projects that must not require significant grading or other alteration of the natural environment.

Existing Allocations

Allocations and development rights existing at the time of adoption of this Policy remain in place and do not require any further consideration.

Properties with Existing Residential Use or Other Uses

Existing properties that have existing residential or non-residential uses will be allowed to apply their traffic generation equivalency to proposed new developments provided the existing use is legally permitted and the proposed use is consistent with applicable City policies and ordinances without additional allocation under this Policy.

Opportunity Sites

The opportunity sites are allocated development capacity as described in the Land Use section above and according to the provisions in the following Phasing Plan. Additional residential allocation may not be made to the Opportunity Sites.

Residential Pool Allocation

Residential development capacity for new projects outside of the Opportunity Sites will be allocated at the time of the City's approval of a Planning development permit or zoning action. Once allocated, units are removed from the Residential Development Unit Pool and no longer available for allocation to other properties. Generally allocation is granted on a chronological basis at time of a development permit or zoning according to the provisions below. Residential projects exceeding 20 units will not be given an allocation and will not be able to construct until the completion of Phase I requirements identified in this Policy are complete. All allocation from this pool is subject to the Phasing Plan. If a permit or zoning expires or is replaced by a new entitlement, any unused allocation is returned to the appropriate pool and becomes available for new projects. All projects receiving allocation from the Residential Development Unit Pool are subject to the Traffic Impact Fee.

No more than 25% (____ Units) of the total Residential Development Unit Pool capacity may be allocated to any single development project. Additionally, this 25% (____ Units) of the initial Pool Capacity is reserved for small projects of four units or less and may not be allocated to larger projects. The remaining 75% (____ Units) may be allocated to any project, provided that it meets at least two of the following criteria:

1. Consistency with General Plan – projects receiving allocation must further the Major Strategies, Goals and Policies of the City of San Jose General Plan.
2. Affordable Housing – projects are required to incorporate affordable housing in excess of minimum compliance with this policy and with other City requirements. In order to meet this criterion, a project must have at least 20% of units reserved to be available for LI, VLI and/or ELI families in addition to fulfillment of any other

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City requirements. Developments may fulfill their obligation as required by this policy by opting to pay an in-lieu fee equivalent to the percentage of units required as affordable.

3. Mixed-Use and Transit Oriented Design – projects are encouraged that incorporate mixed-use elements (e.g. ground floor retail with office or residential above), to foster bicycle and/or pedestrian and transit use through density and site design features.
4. Environmental Sustainability – projects are encouraged to utilize green building measures. To meet this criterion, a project must incorporate a significant portion of the Green Building design actions listed in Appendix C of this document or comparable actions that become available with technological advances, so as to qualify for LEED certification or incorporate a comparable level of Green Building Design measures.
5. Diverse Housing Types – projects are encouraged to increase the range of housing options available to EDP area residents. In order to meet this criterion, at least 50% of the units in a project must be either attached units or detached units with varying scales of living area.
6. Cultural Resources – projects that incorporate significant cultural resources, either through preservation and integration of identified historic structures or through the creation of a new cultural resources (e.g. community center, museum).

Commercial/Industrial and Other (Non-residential) Pool Allocation

Non-residential development capacity for new projects outside of the Opportunity Sites is allocated from the corresponding pools to properties as follows. Square footage or trips are removed from the appropriate pool at issuance of any Planning permit or zoning action and no longer available for allocation to other properties. Generally allocation is granted on a chronological basis at time of permit or zoning.

Projects outside of EDP area

New projects outside of the EDP Area, which may impact gateway intersections, will be subject the City's Level of Service Policy 5-3: Transportation Impact Policy.

Unforeseen future projects

Any development projects beyond the scope of the EDP Policy and EEHVS EIR will require an update to the EDP Policy and additional environmental review. Impacts upon intersections outside of the EDP Area will be subject to City Level of Service (LOS) standards.

FUNDING OF IMPROVEMENTS

Property owners or developers will be required to provide funding for the transportation improvements and community amenities prior to the issuance of permits for new development per the phasing plan. This funding will be the obligation of the property owners of the Opportunity Sites through payments made according to the Phasing schedule outlined below. The precise terms of this funding obligation are set forth in the separate Funding Agreement. Developers of the residential units outside of the four Opportunity Sites and within the EDP Area will also contribute towards the funding of the transportation improvements and community amenities through a Traffic Impact Fee (TIF) and fulfillment of Parkland Dedication Ordinance (PDO) and/or Park Impact Ordinance (PIO) requirements. The total estimated cost or value of the Base Transportation Improvements and Amenities included within the Phasing Plan is approximately \$255 Million (2006 dollars), utilizing revenue from two sources: Developer Contribution and the TIF.

The majority of the Transportation Improvements and Amenities included within this Policy will be financed through contributions collected from the property owners and/or developers of the Opportunity Sites prior to the issuance of entitlements for new development on those sites. As outlined in the Phasing Plan, the first payment is required prior to the first Rezoning for any of the Opportunity Sites. Additionally, the property owners of the Opportunity Sites must complete with the City of San Jose (signed and executed) three/four separate agreements: (1) a funding agreement for the full design and construction costs of the US 101 Highway improvement; (2) as described in the section entitled: "Relationship to Parkland Dedication Ordinance/Park Impact Fee Ordinance, a parkland dedication agreement to assure the Four Opportunity Sites meet the requirements of the City's PDO/PIO on a cumulative basis and other subsequent agreement for possible private recreation credits on individual project; and (3) an Affordable Housing Agreement. Additional requirements for each phase are listed in the Phasing Schedule. Allocation of the pool development capacity may occur at any phase.

Based upon the Phasing Plan, entitlement of the development capacity for the four Opportunity Sites is distributed over seven discrete phases. Phase 1 is initiated by the rezoning of one or more of the Four Opportunity Sites. All subsequent phases are initiated by the issuance of building permits up to a specific number of units, distributed in any fashion amongst the Opportunity Sites.

Construction of the Base Improvements (Project Transportation Improvements and Transportation Traffic Mitigation Measures) must be fully funded prior to commencement of the second phase as shown in the Phasing Schedule, regardless of their cost. Should alternate sources of funding become available to construct the required Base Improvements (i.e., State Bonds), the original Base Improvement funding provided by the Four Opportunity Sites will be available for the construction of improvements listed on the preceding amenity list (adding to the funding already

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committed for amenity purposes) and/or may be used to fund future operation and maintenance costs associated with these facilities. The City will begin design work and refine calculations for the cost of these transportation improvements using funds provided during the first and second phases. At the beginning of Phase 2, the developers of Phase 2 units will provide funding for the full cost of constructing all of the Base Improvements based upon the best information available at that time and funding for their full cost will be secured with the City prior to issuance of Building Permits for the third phase. No amenity funds shall be used to cover the required base improvements, except for those instances described below. Phase 2 also includes funding for Amenity projects. If the TIF portion of funding for transportation improvements is not yet available at the conclusion of Phase 2, a portion of the Phase 2 Amenity funding may be allocated for the use of funding the Base Improvements. The total amount of Amenity used to fund the Base Improvements in Phase 2 will be reimbursed to the Amenity funds once the TIF funds are collected, strictly for the development of the preceding Amenity list.

Successive phases require the developers of the Opportunity Sites to pay a specific dollar amount, adjusted for inflation, prior to issuance of Building Permits. This money will be used to fund the design and construction of Amenity List items, according to their prioritization.

Opportunity Site owners may apply to the City to establish a Community Facilities District (CFD) as a financing mechanism for the Improvements and Amenities, which formation is in the discretion of the City Council, but funding for each phase must be provided in advance of entitlement per the Phasing schedule regardless of any timeline for the possible formation of a CFD. Additionally, in Accordance with all of the requirements of Title 14 of the San Jose Municipal Code for City-Private Developer Contracts, the Director of Public Works may enter into turnkey construction agreements with the Opportunity Site developers for some of the Improvements or Amenities, which may be substituted in place of the required Opportunity Site developer funding for the corresponding facility on the Improvements or Amenities prescribed above.

Traffic Impact Fee (TIF)

The development of residential pool units, pursuant to the EDP excepting the four Opportunity Sites will be subject to a Traffic Impact Fee. Non-residential development projects are not subject to the Traffic Impact Fee. The Traffic Impact Fee is based upon a fair-share contribution towards the cost of providing transportation improvements that directly mitigate the traffic impacts associated with the development of the residential pool units. Because traffic generation rates are different for multi-family and single-family development types, the Traffic Impact Fee amount is tied to the type of development.

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The TIF shall be adopted by the City Council by ordinance. Residential development on the Opportunity Sites is not subject to the TIF because the TIF covers the contribution toward Improvements that mitigate the impacts of the Residential Pool Units.

Funds collected through the TIF shall be used to fund the Transportation Improvements and Transportation Traffic Mitigation Measures. Because these items will have been fully funded at the conclusion of Phase 2, any TIF monies collected subsequently will be used to reimburse the funding amenities. The total projected revenue from the TIF is project to be *TBD (approximately \$3-6 Million)*.

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DEVELOPMENT PHASING SCHEDULE

Phase	Entitlements/ Building Permits Issued	Transportation/ Community Amenities For Opportunity Sites	Opportunity Site Obligation to Fund/Construct (Estimated Cost in 2006 \$)
I	1 st PD Zoning Approval	Fund design work for Phase II Transportation & Community amenities components, including but not limited to, planning, property acquisition and design work.	<p><u>\$22M</u></p> <p>(\$19M is for Base Improvements & \$3M is for Amenities)</p> <p>And</p> <p>Completion of:</p> <ul style="list-style-type: none"> - The US 101 Funding & Construction Agreement - School/Park Joint-Use Agreements - Affordable Housing Agreement - Parkland Dedication Agreement (if applicable)
II	<p>Prior to the First Building Permit for the First Opportunity Site Unit</p> <p>100% of Pool Capacity</p>	<p>Fund construction for the following:</p> <p><u>Transportation (All Base Improvements):</u></p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> • TBD – based upon cost/funding available. <p>Fund various Phase III Transportation & Community Amenities components, including but not limited to, planning, property acquisition and design and construction work.</p>	<p>Secure funding for all design & construction of all Base Improvements (Estimated Value <u>\$98M</u>)</p> <p>And</p> <p>Contribution for Amenities of \$10M</p>
III	<p>Prior to obtaining Building Permits for more than 49% of the Opportunity</p>	<p>Fund construction for the following:</p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> • TBD – based upon cost/funding available <p>Fund various Phase IV Transportation & Community Amenities components, including but</p>	<p>Contribution</p> <p>\$25M + any additional amount needed for the Base Improvements</p>

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	Site units	not limited to, planning, property acquisition and design and construction work.	
Phase	Entitlements/ Building Permits Issued	Transportation/ Community Amenities For Opportunity Sites	Opportunity Site Obligation to Fund/Construct (Estimated Cost in <u>2006</u> \$)
IV	Prior to obtaining Building Permits for more than 69% of the Opportunity Site units	<p>Fund construction for the following:</p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> TBD – based upon cost/funding available <p>Fund various Phase V Transportation & Community Amenities components, including but not limited to, planning, property acquisition and design and construction work.</p>	Contribution for Amenities of \$25M
V	Prior to obtaining Building Permits for more than 79% of the Opportunity Site units	<p>Fund construction for the following:</p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> TBD – based upon cost/funding available <p>Fund various Phase VI Transportation & Community Amenities components, including but not limited to, planning, property acquisition and design and construction work.</p>	Contribution for Amenities of \$25M
VI	Prior to obtaining Building Permits for more than 89% of the Opportunity Site units	<p>Fund construction for the following:</p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> TBD – based upon cost/funding available <p>Fund various Phase VII Transportation & Community Amenities components, including but not limited to, planning, property acquisition and design and construction work.</p>	Contribution for Amenities of \$25M
VII	Up to 95% of Opportunity Site Units	<p>Fund construction for the following:</p> <p><u>Community Amenities:</u></p> <ul style="list-style-type: none"> TBD – based upon cost/funding available 	Contribution for Amenities of \$25M

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Table Note: Funding must be secured prior to issuance of building permits for each phase. Estimates shown in this table are based on 2006-dollar amounts and will be adjusted annually based upon inflation of construction costs. The estimated cost value of the base improvements in Phase I and II is based on limited project descriptions and will need to be refined following completion of design work for those improvements. Prior to the issuance of Phase III building permits, the funding amount will need to be updated to reflect the latest estimates and inflation.

COMMUNITY REVIEW

Prior to the implementation of Phase IV, the City will conduct a review of the implementation of this Policy with the community in the EDP Area. All participating Task Force and community members will be invited to participate in a progress report and evaluation of the Policy outcomes. Any recommendations from this review will be used to consider a possible update of this Policy accordingly.

Timing of Development Under EDP

No development within the EDP Area shall occur until it complies with all of the requirements of the EDP and all other entitlements required for such development.

Additionally, the owners of the Opportunity Sites shall not be entitled to any legislative or discretionary land use entitlement affecting the potential development of the Opportunity Sites until the owners of the Opportunity Sites have entered into an agreement with the City to fund the Improvements and Amenities in the manner specified herein, which agreement shall be recorded against each of the Opportunity Sites and shall be binding upon the Opportunity Site owners' successors in interest, if any. The Opportunity Site Owners shall have no entitlement to develop their Opportunity Sites in the event that they fail to enter into an agreement with the City and the Santa Clara Valley Transportation Authority, or fail to make payment according to such an agreement, for the owners' funding of the construction of the Traffic Improvements to Hwy 101 as described herein and in the manner and timing specified herein.